

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS DUANE TAYLOR, GJ-7699,)	
Petitioner,)	
)	
v.)	2:14-cv-516
)	
BRIAN V. COLEMAN, et al.,)	
Respondents.)	

MEMORANDUM and ORDER

Thomas Duane Taylor, an inmate at the State Correctional Institution at Fayette has presented a petition for a writ of habeas corpus which he seeks leave to prosecute in forma pauperis.¹

Taylor is presently serving an 18 to 36 year sentence imposed by the Court of Common Pleas of Lehigh County, Pennsylvania.

It is provided in 28 U.S.C. §2241(d) that:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a state which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

While the petitioner is in custody in the Western District of Pennsylvania, the trial court which sentenced him is located in Lehigh County which is located in the Eastern District of Pennsylvania. Since it would appear that the interests of justice would best be served by transferring the instant petition to the United States District Court for the Eastern District of Pennsylvania, the petition will be transferred to that District.

¹ Although Taylor labels his petition as a "Rule 60(b) motion in lieu of writ", the relief he seeks is "to vacate plaintiff's judgment of commitment [by the state court] and release, or remand for re-sentencing." Clearly, this relief falls within the ambit of 28 U.S.C. §2254 and the petition will be treated as one seeking habeas corpus relief.

An appropriate Order shall be entered.

ORDER

AND NOW, this 22nd day of April, 2014, for the reasons set forth in the foregoing Memorandum, IT IS ORDERED that leave to proceed in forma pauperis is provisionally granted and IT IS FURTHER ORDERED that the above captioned petition for a writ of habeas corpus be transferred forthwith to the United States District Court for the Eastern District of Pennsylvania.

s/ Robert C. Mitchell
United States Magistrate Judge